

**UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MASSACHUSETTS**

**PATRICK LONGLEY,**  
**Plaintiff**

**V.**

**BUCHANAN MARINE LP,  
Defendant**

## Civil Action

**No. 04-12548-MLW**

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

The Defendant has moved to dismiss pursuant to Fed.R.Civ.P. 12(b)(5) for insufficient service of process, for lack of personal jurisdiction pursuant to Fed.R.Civ.P. 12(b)(2), and for improper venue pursuant to Fed.R.Civ.P. 12(b)(3). The Plaintiff opposes the Defendant's motion for the reasons set forth in the accompanying Brief, and requests that this Court deny the Defendant's motion in its entirety. The Plaintiff also requests that, if the Court were to find that it has no personal jurisdiction over the Defendant based on the facts at hand, this Court deny the motion without prejudice, and allow the Plaintiff to conduct limited discovery on the issue of jurisdiction. Jet Wine & Spirits, Inc. v. Bacardi & Co., Ltd., 298 F.3d 1, 6 (1<sup>st</sup> Cir. 2002); Theunissen v. Matthews, 935 F.2d 1454, 1458 (6th Cir. 1991); Ten Mile Indus. Park v. Western Plains Service Corp., 810 F.2d 1518, 1525 (10th Cir. 1987). The Plaintiff is entitled through depositions, interrogatories, and requests for production of documents to analyze records and invoices to determine the actual contacts that the Defendant has with Massachusetts.

WHEREFORE, the Plaintiff respectfully requests:

- A. That the Defendant's motion be denied in its entirety; and
- B. That, if the Court believes that the Defendant's motion has merit, it deny the

motion without prejudice and permit the Plaintiff to conduct discovery on the issue of jurisdiction.

Respectfully submitted for the  
the Plaintiff, Patrick Longley,  
by his attorney,

/s/ David J. Berg, Esq.  
Carolyn M. Latti, BBO 567394  
David F. Anderson, BBO 560994  
David J. Berg, BBO 558624  
Latti & Anderson LLP  
30-31 Union Wharf  
Boston, MA 02109  
(617) 523-1000

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the within document with the Clerk of the Court using the CM/ECF system which will send notification of such filing(s) to all counsel of record.

Respectfully submitted for the  
the Plaintiff, Patrick Longley,  
by his attorney,

/s/ David J. Berg, Esq.  
David J. Berg, Esq.  
Latti & Anderson LLP  
30-31 Union Wharf  
Boston, MA 02109  
617-523-1000

Dated: January 24, 2005